

Minutes of the
MAINE LAND USE REGULATION COMMISSION
Regular Monthly Meeting
Department of Conservation Bolton Hill Conference Room,
2870 North Belfast Ave (Rt. 3)
Augusta, Maine
January 14, 2004

Adopted by the Commission February 11, 2004

Commissioners Present:

Theresa Hoffman

Ed Lavery

Steve Wight

Bart Harvey

LURC Staff Present:

Catherine Carroll, Director

Aga Pinette, Senior Planner

Sarah Canon, Senior Planner

Ellen Jackson, GIS Coordinator

Sue Burns, Chief Planner

Fred Todd, Planning Division Manager

Scott Rollins P&C Division Manager

Peggy Dwyer, Resource Administrator

Bill Galbraith, Regional Services Supervisor

David Rodrigues Regional Representative

Larry Casey, Regional Representative

Bob McKee, Regional Representative

Charlie Corliss, Regional Representative

Others:

John Willard,

Moosehead Wildlands Inc.

Elizabeth Swain

Andy Sturgeon

Patrick McGowan, DOC Commissioner

Diano Circo, Natural Resources Council of
Maine

Gordon Mott, Lakeville

Ralph Knoll, BP&L

Karin Tilberg, Deputy Commissioner

William DiGiovanni

Ginger Davis, Moosehead Wildlands Inc.

Larry Warren, Western Maine Mountains

David Rodrigues BP&L

Note: If a unanimous vote is indicated, all commissioners in attendance voted the same way. Split commission votes are recorded in the following order: number voting in favor of a motion - number opposed - number abstaining - number absent.

MINUTES OF NOVEMBER 12, 2003 COMMISSION MEETING

Steve Wight made a motion to adopt the minutes as presented. Ed Lavery seconded the motion, and the vote carried 4-0-0-0.

COMMISSIONER COMMENT- Bart Harvey acknowledged that Ralph Barnett passed away unexpectedly several days after the November meeting. With gratitude and respect, he spoke briefly about Ralph's short, but valuable service the Commission. Steve Wight mentioned that Catherine, Bart and he had attended the funeral, calling it an uplifting celebration of his Life. Catherine Carroll said that Ralph's daughter Jane told her that Ralph truly enjoyed his service to the Commission. She said that her dad always needed to keep busy, and he especially enjoyed visiting with staff out in the field.

DIRECTOR'S REPORT

Catherine welcomed the Commission to Augusta, reminding them that it had been a year already since they were in this very same room holding their first meeting under the Baldacci administration. Since the December meeting had been cancelled, it seemed like a long time since she'd seen everybody. She repeated that Ralph Barnett passed away on 12/3/03, and that she and Commissioners Wight and Harvey attended the service. Catherine announced that she had contact information for Ralph's daughter Jane Barnett, in case anyone wanted to drop her a note. Catherine thanked Theresa for attending the meeting so the Commission would have a quorum, and then said that the governor's office was well aware of the critical need to get appointments for LURC Commissioners.

Catherine said that Commissioner McGowan would be stopping by later to address the Commission.

Staff News

Catherine announced that Kristina Henderson, who had been with us since the spring of 2001, left LURC at the end of

December. Today is Dave Rodriques' last day- he'd been working for LURC in Rangeley for four years before taking a job in the Off-Road Vehicle Division right next door in the Bureau of Parks and Lands in Augusta. Sylvia Katz was here as a Clerk Typist III for only two months before transferring to the Department of Administrative and Financial Services. Charlie was offered another position, but chose not to move out of Cherryfield. Bob is still planning to go to Greenville as an ES II. Catherine said that all of the supervisors were working hard to fill all of these vacancies as soon as possible.

Moving on to happier news, Catherine announced that Scott Rollins started working as the new Division Manager for Permitting and Compliance on January 12th, and Larry Casey was hired to work out of the Rangeley office on December 30. Catherine introduced both Scott and Larry, who expressed enthusiasm for their new roles. Catherine also expressed thanks to Bill Galbraith for his willingness to act in the capacity of Division Manager since April of last year, and thanked him especially for his contributions during the past several months.

Legislative Update

Amend Great Ponds Act (reinstate the Jet Skis Ban with no sunset provision) This bill would put LURC back in the business of considering petitions to limit the use of surface craft.

Atkinson Deorganization. Catherine announced that the public hearing is scheduled for Wednesday, January 21, and that the State and Local Government Committee may do the work session that same afternoon. If not, the work session will be held on Tuesday, January 27.

Appropriations Committee- 0405 Curtailment- Catherine announced that the department recently participated in a 15% across the board curtailment exercise. Ed Lavery expressed his deep concern that the loss of 35,000 in Capital and All Other Funds, coming on the heels of a drastic loss of personnel, was doubly damaging. Without adequate staff, it is more important than ever to be able to compensate for fewer people by upgrading the technical tools we are able to give them to do the job, so any loss of All Other or Capital Funds is a serious setback.

Finally, Catherine reminded the Commission that the next meeting is scheduled for February 11th in Bangor, and Catherine mentioned that Jeff Pidot is expected to attend. Catherine suggested holding a going away dinner for departing Commissioners Mally and Jackie and Theresa, and the Commission was generally supportive of the idea of meeting in Bangor after our next regular meeting.

Commissioner McGowan addressed the Commission next, thanking them for their service, and promising them that the governor was well aware of their critical need for new appointments. He said that he knew of 4 names that had been put forward, and he was optimistic that the legislature would act quickly. Commissioner McGowan went on to thank Theresa Hoffman for her service over the years, and for being willing to fill in now, after her original commission had expired, so the Commission would have a quorum. He described a busy legislative session, saying there was a lot to do in a short time, and the additional pressure of the 04 05 supplemental budget discussions didn't make it any easier. He encouraged LURC to fill as many vacancies as possible, because legislators always looked to unfilled positions to fill remaining gaps at the end of every budget debate. Commissioner McGowan mentioned with some pride his role in the Forest Legacy program,

a voluntary private land conservation that provides financial assistance leveraged by non-Federal cost sharing and cooperation with other States to prevent the fragmentation and conversion of private forestland.

Overall goals of the Forest Legacy program include achieving goals of maintaining traditional forest uses, protecting water quality, preventing development along pristine lakes, ponds and streams, providing public recreation opportunities, and maintaining productive forests. He ended by saying that Jobs, Development, Community and Protection can all be improved when all the stakeholders come in good faith to the same table. Steve Wight asked for the status of the program to date, to which Commissioner McGowan responded that it was not a finite document, and that new, once in a lifetime opportunities have presented themselves in the last 30 days. A \$1,000,000,000 land acquisition bond proposal will go before the legislature this session to allow the work of the Land For Maine's Future program to continue. Karin Tilburg referred the Commissioners to their copy of the Maine Woods Dover Foxcroft project, saying that this document provided a good model for evaluating projects. Given a clear vision and shared principles, opportunities can be screened against

vision and values to make the wisest use of limited funds.

Ed Lavery said he was impressed by the Governor's bold vision, and the determination it takes to act on a once in a lifetime opportunity. He congratulated the Governor's office for achieving such great participation.

He went on to question whether it was time to rethink LURC's role in all of this. Since LURC was created under dramatically different circumstances, and given that the nature and scope of projects before the Commission are changing drastically, he questioned whether it was time for LURC to be reconfigured to better meet current and future challenges. Bart Harvey also commented on how dramatically LURC's role has changed, saying that it was originally established to regulate forestry activities, but that aspect is nearly gone and now the Commission spends its time regulating development activities and adjudicating septic systems. Karin Tilberg suggested that better coordination with the LFMF board and other agencies might provide the broader context the Commission needs as they consider how they might develop a unifying mechanism to bring these disparate efforts together, and she also suggested that the CLUP review, scheduled for 2007, might provide the appropriate framework to develop such changes.

Ed Lavery cautioned that without some standards for conservation easements, it would be very hard to measure the public benefit component of any particular easement. Karin said that the recently developed Working Forest Easement Guidelines contained some valuable information. She described the process as an ongoing experiment in which we continually learn more about what works and what doesn't. Commenting on the current restructuring of several other large agencies and the education regionalization plan, Commissioner McGowan said that the Governor would be very open to the notion of changing the functions of LURC to meet the changing needs of the unorganized territory. He foresaw an increasing workload at LURC in the future, and said he would be very aggressive in asking for resources for the North Woods. Ed Lavery said that he was very, very glad to hear that, and repeated his concerns that additional budget curtailments will erode the agency's ability to maintain and enhance the infrastructure LURC needs to be more efficient through the use of technology. He thanked Commissioner McGowan for bringing LURC's plight to the attention of the appropriations committee.

Karin Tilberg said that LURC and LFMF will continue to have to deal with rapid change, commenting that heightened interest in ownership, huge and frequent sales, and surprising development pressure has created unusual partnerships using strategies we never would have dreamed of 10 years ago. She encouraged LURC to consider collaborating with other agencies and to begin thinking out of the box.

Theresa Hoffman asked Commissioner McGowan to remember the immediate need to establish 4 new Commissioners as soon as possible. She pointed out that to do the business of the jurisdiction, it was necessary to have all 4 remaining members not only present, but unanimous in their decision.

PLANNING MATTERS

ZP 682 Moosehead Wildlands, Inc.,

Aga Pinette provided a very long and detailed presentation of the proposed Lake Concept Plan for Baker Pond and portions of Brassua Lake in Tomhegan Township in Somerset County, all within the ownership of Moosehead Wildlands, Inc. She addressed all questions to the satisfaction of the Commission, and then Ralph Knoll of the Bureau of Parks and Lands told the Commission that his agency had agreed to act as a third party easement holder if that need ever arose. Aga explained that John Willard had stepped down from the board of the Western Maine Mountains Foundation, thereby putting to rest questions of conflict of interest between the easement holder and the developer. Satisfied, Steve Wight made a motion to accept the staff recommendation to adopt the Lake Concept Plan as presented. Ed Lavery seconded the motion, and the vote carried unanimously. The Commission did agree to honor Ginger Davis' request to delegate to staff the authority to make typographical and other minor edits to the final document at the staff level. They also made a motion to delegate to staff the authority to process related subdivision applications at the staff level. Catherine congratulated staff and the applicants for all of their hard work on the project. Aga said that the collaboration between the petitioner and the intervener had been exceptionally productive, and their willingness to work together had, in the end, created a much better product. Steve Wight thanked the petitioner for taking the time to present

his proposal so thoughtfully. He said the orderliness if the commission packets really helped him understand just what was being proposed and to organize his thoughts around each issue.

EC 02-130 William R. DiGiovanni, Jr., and Birch Realty Trust,

William DiGiovanni constructed a camp without a permit and in violation of setback requirements in Albany Twp in Oxford County. Dave Rodrigues summarized the violations and the enforcement steps taken, which culminated in a settlement agreement which required Mr. DiGiovanni to pay a civil penalty of \$3,000, install an approved wastewater disposal system to serve the existing camp, and to re-establish and maintain a vegetated buffer in the cleared areas along the stream. Mr. DiGiovanni signed the agreement and paid the fine, but came before the Commission to appeal the requirement to plant more trees, contending that the opening in question existed naturally, and the only trees he had removed had been storm damaged fire hazards. He also contended that there were errors in David's field notes that had never been corrected. William DiGiovanni was allowed to show a short video of his property, and also presented photographs for the Commission's consideration. Ed Lavery sympathized with Mr. DiGiovanni, but explained that the Commission had little recourse at this point, since he had freely admitted that he was in violation, signed the agreement and paid the fine. Ed credited Mr. DiGiovanni for doing the right thing and promptly working to correct the situation, but suggested that following the rest of the agreement and just planting the trees as required was the best way to put the matter behind him. Steve Wight made a motion to accept staff recommendation to ratify the settlement agreement. Ed Lavery seconded the motion, and the vote carried unanimously.

2004 Calendar Discussion

The Commission agreed to try to meet on the second Wednesday of each month for the next year, and tentatively scheduled them in the following locations; January 14, Augusta; February 11, Bangor; March 10, Greenville; April 7, Millinocket; May 12, Springfield; June 9, Rangeley; July 14, Sugarloaf area; August 11, Columbia Falls; September 8, Bethel; October 13, Houlton; November 10, Rockland; December 8, Augusta.

GOAT DEMONSTRATION

Aga led the Commission on an overview of GOAT, LURC's new GIS-based action tracking application. The Geographically Oriented Action Tracker links the agency's permitting, enforcement and planning records with geographic data such as zoning maps, digital taxation parcels, waterbodies and other natural resources. The GOAT application streamlines many processes critical to LURC's land management roles. Staff can now obtain centrally located geographic data essential to tasks such as conducting permitting and enforcement case review and analyzing regional development trends. In addition, GOAT includes tools to edit parcel boundary changes and capture land division history data.

The meeting was adjourned at 3:30 PM

Respectfully Submitted,

Peggy Dwyer, Resource Administrator